

### REMARKS

Claims 1-7 and 9-21 are in this application and are presented for consideration. By this Amendment, Applicant has amended claims 1, 7, 13, 14 and 19.

The abstract of the disclosure has been objected to because of a minor informality.

Applicant has amended the abstract as shown above to address this issue. Applicant wishes to thank the Examiner for the careful review of the abstract.

Claims 1, 7, 9 and 13 have been provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 and 6 of copending Application No. 11/002,758.

Applicant has attached a terminal disclaimer to overcome this provisional rejection.

Claims 1, 9, 13 and 14 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

Applicant has amended claim 1 to provide that a transverse fold is defined by a weakened line. The Office Action states that it is not clear what structure is set forth by "a means for receiving a force". It is Applicant's position that the structure is clearly set forth in the specification as the means for receiving a force includes the finger engaging portions of each leaf, which receives a force from a user when the user applies pressure to the finger engaging portions of the leaf to break the vial. Applicant has also amended claims 13 and 14 to address the antecedent basis issues. It is Applicant's position that the claims as now presented are clear and satisfy the requirements of the statute.

Claim 1 has been rejected under 35 U.S.C. 102(b) as being anticipated by Banks (U.S. 1,682,106).

The present invention relates to a box structure containing at least one glass vial with a neck to be broken. At least one vial-breaking tool is located within the box structure for breaking a neck of a glass vial. The tool comprises a strip of cardboard that has a hole for receiving the neck of the glass vial. A weakened area defines a transverse fold that coincides with the hole. The strip of cardboard is folded along the transverse fold such that two leaves are formed. One leaf is opposite another leaf when the strip of cardboard is in the folded position. Each leaf defines a finger engaging portion and each leaf is located alongside the neck of the glass vial when the glass vial is inserted into the hole of the cardboard strip. This allows the user to grasp the leaves while holding the other end of the glass vial so that the user can generate a force with his or her fingers to snap off the neck of the vial. This advantageously protects the user from cutting his or her fingers since the leaves protect the user's fingers. This allows the user to open the vial safely without fear of injury.

Banks discloses a card B for attaching to a hanger holding a garment. The card B is used for advertising purposes and is constructed from a blank of cardboard, cloth or sheet metal. The card includes a rectangular body 10 that is folded transversely thereof along a line 11 adjacent to one end of the body. This defines a front body portion 12 and a rear attaching portion 13. The blank is provided with an enlarged opening 14 at the transverse line 11 to permit the card to be associated with the hanger. The portion 12 of the card receives the advertising matter 15 which can be on one or both sides. In applying the card to the hanger the

hook 5 is placed through the opening 14 and the card is brought down over the arms 6 of the hanger. The portion 13 of the card is now folded against the portion 12 and is secured thereto by staples 16.

Banks fails to teach and fails to suggest the combination of a box structure that contains a tool for breaking a neck of a glass vial. At most, Banks discloses a card that is attached to a hanger that holds a garment. However, the card fails to form a box structure as claimed. In contrast to Banks, the box structure of the present invention contains at least one glass vial. The box structure has a tool located within it so that a user can open the box and take out the tool so that the tool can be used to break off the neck of a glass vial. This advantageously protects the user's fingers when the user breaks off the neck of the glass vial. Banks fails to disclose such user protection advantages since Banks fails to disclose a tool located within a box structure that can be used to break off a neck of a vial as claimed. As such, the prior art as a whole takes a different approach and fails to disclose each feature of the claimed combination. Accordingly, Applicant respectfully requests that the Examiner favorably consider claim 1 as now presented.

Claims 1 and 7 have been rejected under 35 U.S.C. 102(b) as being anticipated by WO 00/34938 (hereinafter "WO '938").

WO '938 discloses a coupon vehicle 10. The coupon vehicle 10 is a body 12. Body 12 has a central aperture 14 that is circular and of a diameter suitable placement of the coupon vehicle 10 onto a neck of a container 40. Aperture 14 cooperates with the neck of a container so that the coupon vehicle is securely attached to the container when installed on the container.

Body 12 has a plurality of slits 16 extending radially outward from aperture 14. Flaps 18 are bounded by two adjacent slits 16 and a portion of edge 20 of aperture 14.

WO '938 fails to teach or suggest the combination of a box structure with a tool for breaking a neck of a glass vial as claimed. At most, WO '938 discloses a coupon vehicle for necked containers comprising a body having a central aperture for receiving the neck of a container and at least one line of perforations extending from the outer edge of the body to the central aperture. However, the coupon vehicle does not comprise a box structure with a tool located therein as claimed. In contrast to WO '938, the box structure of the present invention contains a tool for breaking a neck of a glass vial. This advantageously allows a user to open the box and remove the tool so that the tool can be used to break off the neck of the glass vial without the user injuring his or her fingers. Compared with the present invention, WO '938 merely discloses a coupon vehicle having a body 10 that is placed on a neck of a container, but the body 10 is not in the form of a box structure and does not contain a tool as claimed. As such, WO '938 does not provide a teaching or a suggestion for each feature of the claimed combination. Accordingly, Applicant respectfully requests that the Examiner favorably consider claims 1 and 7 as now presented.

Claims 13, 14 and 19-21 have been rejected under 35 U.S.C. 102(b) as being anticipated by EP 0784015 (hereinafter "EP '015").

EP '015 discloses a punched and perforated cardboard sheet comprising four consecutive main panels 1, 2, 3, 4 and a fixing tab 5, which are separated from each other by first parallel folding lines 6, 7, 8, 9. From the panel 1 there projects a flat closure panel 10 and

a panel 12 with a foldable tab 14 intended to form a traditional closure lid for the box. Flaps 15 project from the panels 2 and 3 and are separated from the respective main panels by third folding lines 16. The folding lines 11, 13 and 16 are perpendicular to the folding lines 6-9. From the main panel 4 there projects an elongate strip of width substantially equal to the width of the panel 4 and separated therefrom by a fourth folding line 17, the strip being divided into seven parts 18, 19, 20, 21, 22, 23, 24 by folding lines 25, 26, 27, 28, 29 parallel to each other and to the line 17 and all perpendicular to the folding lines 6-9. The first, third and sixth strip part 18, 20, 23 have a length equal to the width of the panels 2 and 3. The strip parts 20 and 23 comprise holes 31 and 32 which lie aligned in pairs within the finished box. Glue is applied to the strip parts 19, 21, 22, 24. The strip is folded about the folding line 28 and the parts 22 and 24 are superposed on the parts 21 and 19 so gluing them together. To the outside of the strip part 22 and/or to the inside to the wall 4 there are then applied a layer of glue 41, after which the cardboard strip is further folded about the line 25 to fix the glued outer surface 40 of the part 22 to the inner surface of the wall 4. The fixing tab is folded inwards and a layer of glue 42 applied to it after which the cardboard is folded about the line 7 to fix the glued edge of the tab 5 to the free end of the wall 2. The box user positions the packs of folded boxes with the panels 2 and 3 perpendicular to the panels 1 and 4. The flaps 15 and the elongate strip part 18 are then automatically rotated towards the interior of the box. The parts 20 and 23 rotate such that they are parallel and spaced apart with the holes 31 of the part 20 aligned with the holes 32 of the part 23. A layer of glue 50 is then applied to the interior of the panel 10 which is then rotated to become superimposed on and glued onto the outer surface of the strip part

18. Vials 60 are inserted into the box through its open lid and remain securely housed and retained in the pairs of holes in the strip parts 20 and 23.

EP '015 fails to teach or suggest the combination of a strip of detachable tools that are located within a box structure wherein the tools can be detached from the box to break off a neck of a glass vial when the tool is detached from the box structure. At most, EP '015 discloses a box for storing vials 60, but the box does not contain a detachable tool as claimed. EP '015 must be giving a fair reading for what it teaches and a fair reading of EP '015 merely discloses a box for storing vials. In contrast to EP '015, the box structure of the present invention has a plurality of detachable tools connected thereto. This advantageously allows a user to open the box and detach a tool from the box to break off the neck of a glass vial using one of the detachable tools without the user getting injured. EP '015 does not disclose such injury preventing advantages since EP '015 only discloses a cardboard sheet that is folded into a box for holding vials 60. The box structure of EP '015 does not contain a plurality of detachable tools as claimed. As such, the prior art as a whole takes a different approach and does not disclose each feature of the claimed combination as claimed. Accordingly, Applicant respectfully requests that the Examiner favorably consider claims 13 and 19 as now presented and all claims that respectively depend thereon.

Claim 9 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Banks or WO '938. As previously discussed above, Banks and WO '938 fails to teach or suggest the combination of a box structure that contains a tool for breaking a glass vial. The references together do not suggest the combination of features claimed. One of ordinary skill in the art

is presented with various concepts, but these concepts do not provide any direction as to combining the features claimed. All claims define over the prior art as a whole.

Favorable action on the merits is requested.

Respectfully submitted  
For Applicant,



By: \_\_\_\_\_  
John James McGlew  
Reg. No. 31,903  
McGLEW AND TUTTLE, P.C.

- and -



By: \_\_\_\_\_  
Brian M. Duncan  
Reg. No. 58,505  
McGLEW AND TUTTLE, P.C.

JJM:BMD  
71700-10

Attached: Terminal Disclaimer  
Petition for One Month Extension of Time

DATED: May 15, 2008  
BOX 9227 SCARBOROUGH STATION  
SCARBOROUGH, NEW YORK 10510-9227  
(914) 941-5600

SHOULD ANY OTHER FEE BE REQUIRED, THE PATENT AND TRADEMARK OFFICE  
IS HEREBY REQUESTED TO CHARGE SUCH FEE TO OUR DEPOSIT ACCOUNT 13-  
0410.